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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 27/03/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70296-70297/2017-SM[BR] dated 16/03/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1547/2010	**DHAMPUR SUGAR MILLS LTD.** Dhampur, Distt. Bijnore (UP)
2	E/1549/2010	**DHAMPUR SUGAR MILLS LTD.** Dhampur, DIstt. Bijnore (UP)
		Name and Address of Respondent
3		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
4		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

Aalok Arora, Advocate
82-MISSION COMPOUND,
SAHARANPUR,
UTTAR PRADESH
247001

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/1547 & 1549/2010-EX[SM]

(Arising out of Order-in-Appeal No. 73 & 72-CE/MRT-II/2010 dated 25/02/2010 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II [Now Hapur])

M/s Dhampur Sugar Mills Ltd. Appellant

Vs.

Commissioner of Central Excise, Meerut-II Respondent

Appearance:

Shri Aalok Arora, Advocate, for Appellant
Shri D. K. Deb, Assistant Commissioner, (AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Date of Hearing & Date of Decision: 16/03/2017

FINAL ORDER NO...70296-70297/2017

Per: Anil Choudhary

The issue in these appeals by the appellant who is engaged in manufacture of Sugar, Molasses & Chemicals is, whether Cenvat credit taken on certain services, when the invoice is issued in the name of the appellant company/factory and the service have been availed at the Head Office situated at Delhi like Security Service, Rodent Control Service, Brokerage for renting, Brokerage for financial Service, Security service & Sales promotion Service, as well as with respect to invoices issued in the name of Head Office and services received at the factory like renting for the company, advisory service, upfront fee, interest on the car, etc.

2. Heard both the parties.

3. The ld. Counsel for the appellant have urged that in respect of few vouchers for input service received, the objection of the Revenue is that registration number of the service provider is not mentioned. The ld. Counsel have taken me through the relevant invoices, wherein only in one case, the service tax registration was not mentioned but at the same time the appellant have produced the copy of registration certificate of the said service provider along with the certificate of the service providers, in dispute. So far the disallowance of credit on telephone bills installed at residence of officers, and the schools maintained by the appellant company, in the close vicinity of the factory, is that the school is run and maintained by the appellant company, and mostly children of the workers are studying there and, hence, the disallowance is bad. So far the invoices issued in the name of the appellant company at factory address and the services have been availed at the Head Office, it is stated that in appellant's own case, under similar facts and circumstances vide Final Order No. 70499-70502/2016 order dated 22/07/2016 in Excise Appeal No. 1642 & 1643/2010, this Tribunal have held that the such credits is fully allowable as the Corporate or the Head Office exists for the smooth running of the business of the appellant company, which is mainly to facilitate its operations of production and sale. So far the invoices raised in the name of the Head Office, but

services have been received at the factory of the appellant company, vide the said final order, it was held that the such credit is fully allowable as at best, is only a procedural lapse. As it was the transition time when the provisions for registration as an ISD were introduced, relying on the ruling of this Tribunal in the case of Modern Petrofils *Versus* Commissioner of Central Excise, Vadodara : 2010 (20) S.T.R. 627 (Tri. – Ahmedabad). Similarly, with respect to Erection Commissioning Service, whether invoices in the name of the Head Office and service have been received at the factory, credit amounting to Rs.3,25,562/-, it is explained that the same relates to erection of power plant, second phase, for running the factory and as such the credit was fully allowable. It is seen that the work order was issued by the factory at Dhampur, but the service provider have raised the Bill on the Head Office. I find that there is no dispute, with regard to the eligible nature of service, and not a dispute of input service, regarding the payment of service tax on the same.

4. Accordingly, in result, both the appeals are allowed with consequential benefits to the appellant, in accordance with law. The impugned orders are set aside.

(Dictated and pronounced in Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

प्रमाणित प्रति / Certified True Copy
03/04/2017
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

Ansari